



Presentation of
Randi Youells, LSC Vice President for Programs
for the
Ontario Legal Aid Speaker Series

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Thank you for inviting me to your wonderful Country and the beautiful city of Toronto to talk with you about the subject that has been the primary focus of my professional life over the last twenty-seven years—the provision of high quality legal services to people who could not otherwise afford legal aid. As did many of you in this room, I started my legal aid journey fresh out of law school in 1975. As I was sworn in as a licensed attorney in the state of Iowa—which is a small rural farming state located in the midwestern part of our country—I optimistically and mistakenly believed that my “life in legal services” would be a short one. I truly believed that in my lifetime I would witness the eradication of poverty and injustice. I believed that I would see the day when no person—be they American or Canadian—would go hungry at night. I believed to the very core of my soul that the human race was on the brink of a new era in which intolerance and bigotry and prejudice would no longer exist. But as we all know today that young woman who started her life in legal services in 1975 full of hope and promise—and just a wee bit naïve—was not correct about what the future would hold.

Today, in the offices of the Legal Services Corporation of Iowa young attorneys are providing legal assistance to the children and the grandchildren of the clients I tried to help 27 years ago. Today, in our country, hundreds of thousands of people live in our streets. Today, millions of children go to bed hungry at night. Today, just like 27 years ago, racial and ethnic bigotry remains the central reality of most of our clients’ lives. Today—just like yesterday—thousands of people daily knock on the door of legal services and they are told, “no one is home. And that is the reality that brings us here on this beautiful September day. Because we are older and wiser—and perhaps more damaged and more battle-scarred—we know that the promise of legal services has not been fulfilled. But perhaps because within all of us there continues to live younger more idealistic lawyers—a whisper of the lawyers we were at the beginning of our professional lives—we are here today because we are not ready to let go of the “promise” of legal services. We are not ready to call it quits. We are not ready to stop believing that we *can* build a world-class legal services delivery system in both of our countries.

That’s what I will speak to you about today. Although most of my remarks will be devoted to the steps we have undertaken within my country to revitalize a struggling legal services delivery system—steps that we often colloquially refer to as state planning—state planning has always been for me but a tool. The overarching goal has always been—and will always be—the creation of world class legal services delivery systems in which no client or potential client is turned away. After all, in a democracy, the halls of justice must always stand wide open and everyone must be welcome to walk through them unimpeded and unchallenged.

Let’s start with a history lesson. Legal services programs in the United States began in the 1960’s as special model projects initiated by the federal government’s Office

of Economic Opportunity. They were infused with the idealism and spirit of the Kennedy years and strengthened by President Johnson's vision of a Great Society. Under President Nixon, who signed the Legal Services Act of 1974, they became an institution and, over time, a familiar part of the legal landscape in every U.S. state and territory.

Until very, very recently, LSC programs were organized and operated pretty much as they had a quarter of a century ago. They were locally focused and passionately promoted "local control." Many of the staff made legal services their careers. Some of the programs' managers stayed with one program for their entire professional lifetimes. In some programs, board membership terminated only with the member's death. The kinds of cases handled, the strategies for addressing the legal needs of service area residents, and the client community itself remained pretty much the same in most LSC programs until the 1990's. And, while the idealism and vision of a new world remained part of our mantra, its place of honor receded, as legal services became business as usual for many grantees.

Several events in the mid-1990's brought an end to this way of life for the legal services community in my country. The Congress, which controls our funding levels, began to include many members who did not support the purpose and goals of a federal civil legal services program. Consequently, funding appropriations diminished or failed to keep up with the cost of living. Then, in the middle of the decade, a vigorous effort to do away with legal services resulted in a funding bill that carried significant restrictions, including one that prohibited programs from seeking attorney's fees. Additional restrictions prevented our grantees from doing much of the work they had previously handled—representing prisoners in civil litigation, representing certain groups of immigrants, representing clients in class action lawsuits. The Congress also told LSC that it could not continue to fund its grantees "presumptively" and that it must begin to distribute its funds on a competitive basis. This union of significant funding declines, restrictions and competition began to inexorably change the way that legal services in the United States operate.

As a funder and as an organization concerned with seeing that low-income people who struggle with critical civil legal emergencies such as evictions and domestic violence, have access to the justice system, LSC was not willing to accept the "guide path to oblivion" that some had designed for our future. In 1997, LSC began to initiate a series of efforts that we believed would ensure that services to clients did not falter in a time of decreasing resources and limited opportunities. Needless to say, most of 'the field,' as we refer to the collective entity that constitutes our grantee programs, was already frightened and concerned because of the funding drops, new restrictions and competition fears. When, in 1998, LSC announced its intent to launch an initiative that would require massive restructuring of the national legal services delivery system, the announcement was also quite frightening and was not greeted, in many quarters, with open arms.

So, what has LSC done to restructure the American legal services delivery system since 1998? The most innovative and certainly the most difficult part of our strategy to

move our grantees into new approaches to serving clients—and the one that has received the most attention (both good and bad)—is the *State Planning* strategy that we launched in 1998. As it was conceived and as it has played out, LSC’s State Planning Initiative is a new visionⁱ for legal services in which eligible clients in every state are afforded an equal opportunity to avail themselves and ultimately to attain high-quality civil legal assistance. In an effort to foster more consistent levels of statewide service and to eliminate “service gaps” that leave clients in geographically remote areas under-represented compared to their urban counterparts, LSC has asked each of its grantees to undergo a fundamental paradigm shift in their program vision. Program leaders have been instructed to abandon the parochial thinking of “What’s best for clients in my service area?” and asked instead to consider “What’s best for clients throughout my state?” and ultimately, “What’s best for clients throughout the United States”.

I think that it is important for you to know that LSC initially stressed the importance of state planning in 1995 when it asked its recipients in each state to participate in the development of a plan for the design, configuration, and operation of LSC-funded programs in their states. The 1995 Program Lettersⁱⁱ were primarily developed in response to funding cuts and restrictions that had crippled legal services in our country. These early planning documents laid the foundation for what was to come in 1998 in that they began to set forth a vision for legal services delivery and enumerated the issues and criteria that state planning should address. However, except for a handful of states, the 1995 calls for state planning were largely ignored and to be honest LSC did little during this time period to promote nationwide strategic planning.

In 1998, the State Planning Initiative was re-initiated. LSC Program Letters 1998-1ⁱⁱⁱ and 1998-6^{iv} directed programs to plan for the creation of comprehensive, integrated, coordinated legal services systems and defined the terms of such systems. Grantees were required to submit a report outlining their state plans by October 1, 1998. Their plans were to include responses to the seven initial central tenets of State Planning: (1) development of intake, advice, and referral services; (2) effective usage of technology; (3) increased access to legal self-help and prevention information; (4) coordination of legal work, training, information, and expert assistance; (5) engagement of *pro bono* attorneys; (6) development of additional state, local, and private resources; and (7) optimal configuration of service areas.

LSC did not confine its “directives” to what a plan should include. It also laid out the parameters of the planning process itself. LSC instructed its grantee programs to collaborate with a range of local, state, and national stakeholders, including state and local bar associations, Interest On Lawyers Trust Account (IOLTA) administrators, state judiciaries, client groups, *pro bono* commissions, state legislatures, non-LSC-funded legal services programs, and a host of others. LSC required its grantees in each state to work with each other and with other equal justice stakeholders to develop justice communities that best respond to clients’ most compelling needs, ensure the most strategic and cost-effective use of all available resources, and maximize the opportunity for clients statewide to receive timely, effective, and appropriate legal services.

In 1999, guided by the belief that access to quality legal services is critical to a fair adversarial justice system and committed to making significant improvements in the delivery system the LSC Board of Directors^v approved and enacted its own strategic plan—*Strategic Directions 2000-2005*—which was adopted in January 2000. The twin objectives of *Strategic Directions 2000-2005* were to dramatically increase the number of low-income Americans who can access the civil justice system and to ensure that all clients receive quality legal services. *Strategic Directions 2000-2005* was developed as a forward-looking document. It reinforced the State Planning Initiative already in place by calling state planning its “most important strategy”.

In 1998, LSC’s goal—a goal shared by many of our partners in the American equal justice movement like the American Bar Association and the National Legal Aid and Defender Association—was to obtain a critical mass of new ideas, funds and partners into the national legal services community, and to assist thousands of clients who were being denied access to civil justice because funding was diminished, because programs were failing to keep up with technological and other innovations, and because many of our grantees worked in isolation within states and across state lines. This was a tremendous change for our grantees and for the delivery system that we funded. However, the state planning initiative was also a big change (as some would say, a huge *paradigm shift*) for LSC as an organization. For years LSC had defined itself by the very traditional roles of funder and regulatory agency. The state planning initiative required LSC to become something different, transforming itself into an agent of change and an equity partner capable of effecting large-scale reformation in a moribund delivery system. And, as any one versed in organizational psychology or even experienced in managing a large organization knows, such transformations do not come easy, they are seldom painless, and they require the staff of the organization leading such a transformation to put themselves on the line in ways that often are unfamiliar and unpleasant. LSC was no exception and, today, within the walls of LSC you will find employees who still do not understand or support the state planning initiative. Indeed, in recent internal budget battles within LSC, projects essential to the creation of world class delivery systems—such as the development of a new measurement system to measure our work and the work of our grantees in terms of outcomes for clients and projects to ensure that the delivery system is inclusive and multi-culturally competent—were summarily removed from the first drafts of the budget by the staff who prepare the budget. Funding for these projects was ultimately restored, but not without the intervention of the LSC President and the Board of Directors. And even today, some staff—including staff that work for me—at times mention that they do not support LSC’s state planning initiative and believe that our state planning work is beyond our central mission. Fortunately, many other staff do not see it in the same way.

The creation of a world-class delivery system involved more than “state planning”, per se. LSC also launched companion initiatives—the quality initiative, the diversity initiative, technology initiative grants, to name just a few—that worked hand-in-glove with state planning to promote the development of high-quality delivery

systems. One of the most important companion projects was and continues to be *competition*. At the same time that LSC was launching its state planning initiative, Congress required LSC to cease funding its grantees “presumptively” and to begin to fund programs on a competitive basis. Today, LSC has been providing funding on a competitive basis for seven years. In reality, there has been very little actual “competition” for our federal funds. There are many reasons for this lack of “real competition.” First and probably foremost, as we all know, providing high-quality legal services to low-income persons is not as easy as it looks. It requires systems and practices and mindsets and commitments that may be foreign to many other non-profit providers of human services. Moreover, the fact that Congress has placed numerous restrictions on legal services funding in the United States—restrictions that then attach to non-LSC funds—causes many organizations that might otherwise seriously consider applying for LSC funds to choose not to do so. However, the fact that the competition process has not resulted in widespread “competition” for funding does not mean that it has not been successful. Indeed, I feel that the competition process has been successful in ways that I would not have ever envisioned when I was hanging out in legal services programs in Iowa and New Jersey in the seventies, eighties and nineties. Why? Because the first step in setting up a system of competition was to develop standards and benchmarks that we would use to evaluate programs and assess applicants’ eligibility. And this was an important—and perhaps in American legal services—quite revolutionary development. The fact that benchmarks exist means that there is a standard that all grantees must meet before they are funded by LSC. It means that LSC has a regular means of gathering important qualitative and quantitative information on all our grantees against which we can evaluate their services and their improvement. But it also means that there are aspirational goals for “perfection” that define a high-quality legal services program. We have found that many of our grantees work hard to attain those aspirational goals. Competition was designed to improve quality. And I think that will be its lasting legacy; the fact that it has improved quality over the last seven years and it will continue to do so. Each year the legal services delivery system in the United States gets better at the business of *competition* as LSC refines and improves the process and as our grantees, individually and collectively, become the kinds of high-quality legal services programs of which we can all be proud.

Competition, in and of itself, is now a major tool used by LSC to develop a world-class delivery system. We use it to push our grantees toward stronger and more aggressive delivery of services to clients. It allows us to create more forceful means of conditioning our grants. It allows us to measure program performance in more sophisticated ways. But *linking* competition to state planning has expanded the impact of both of these initiatives in powerful ways that we were not able to envision in 1998. Let me explain.

When an applicant seeks federal funding from LSC and as they become grantees, they are required, as a condition of continued federal funding, to pursue state planning with all other LSC-funded grantees. The penultimate goal is the establishment of “communities of justice” in every state. The core elements of the planning/competition link are as follows:

- Grantees must commit to not only providing quality legal services within their service area but also to working with other legal services providers to develop a comprehensive, coordinated, integrated delivery system;
- Grantees must commit to join with other equal justice stakeholders to establish statewide delivery systems capable—aspirationally—of serving every eligible client in a state, despite geographic, cultural and physical barriers that exist;
- Grantees must commit to utilizing new technologies, self-help materials, new intake systems and multi-cultural staff to reach underserved clients;
- Grantees must prove to LSC that their service area boundaries are as relevant to clients and their communities as when they were first “drawn” or they must work together and with us to redraw them;
- Grantees must work collaboratively with groups and organizations they may have historically considered to be competitors for scarce funds (such as other nonprofit human and social services agencies and non-LSC funded legal services programs) or unlikely partners (judges, legislators, bar leaders);
- Grantees must leverage additional resources to expand services to low-income person; and
- Here’s the kicker—grantees must do all of this or risk the loss of their federal funding.

As I noted earlier, the state planning initiative was a huge shift in thinking for the legal services community. But initially, most grantees thought that like many other projects begun by LSC, they only had to wait it out and it too would disappear into the ozone or Ethernet or wherever legal services ideas go to find their eternal rest. But LSC quickly began to prove we were serious about planning. We highlighted model systems in our literature and program visits. At LSC Board meetings, local events and national conferences, we showcased exemplary planning and implementation. We developed technical assistance funds for creative planning projects and obtained a \$15.6 million commitment from Congress to underwrite sophisticated hardware, Web-based and telephonic systems to expand services for clients. Internally, LSC staff worked aggressively to calibrate units within the Programs Division so that every programmatic effort advanced the creation of high-quality delivery systems. For example, grant-award decisions and visits to assess program quality also focused on the efficacy of *statewide* systems and collaborative efforts with other agencies serving the client community. As a

result, over time, and with much gnashing of teeth the “elephant did begin to dance” and LSC, its grantees and the federally-funded legal services delivery system began to evolve from a piecemeal, Great Society experiment to carefully chosen nonprofit corporations working together to serve poor clients in every jurisdiction.

The most enduring legacy of the state planning initiative—at least in terms of its first four years—has probably been its success in fostering cooperation among stakeholders. In 1998, 10 states had designated state planning bodies dedicated to strengthening legal services. Today, 36 states have such bodies; most others are in the midst of creating one. An essential function of these bodies is establishing public-private coalitions to maximize grantees’ ability to leverage their federal investment. For example, last year in 2001, the engagement of judges, legislators and private bar members helped spawn appropriations for legal services in 25 states totaling \$68.5 million – almost three times more than states appropriated in 1997. Meanwhile, private bar campaigns quadrupled their fundraising from \$5.3 million in 1997 to \$23.6 million in 2001. Ten years ago when I was a legal services program director in Iowa, the private bar was either our adversary or a somewhat disfavored cousin in the family of legal services. Just like families with unsavory family members, legal services programs tolerated the presence of private lawyers in our pro bono models of delivery because we had to—not because we thought they were doing anything useful. Today, in most parts of our country, the partnerships between legal services programs and the private bar are deep and true. Private lawyers have an enhanced understanding of the importance of our work. We, in turn, understand the vital role they play in helping to assure that no client goes unserved. Ten years ago, a judge was someone you saw behind the bench when you went to court. Today, judges from all levels, including Chief Justices of state Supreme Courts, speak out about the need for quality legal services for poor Americans and work with us to try to respond to the problems that are being presented to the United States justice system as a whole as the number of self-represented litigants grows exponentially.

State Planning also has improved access for the fastest-growing client subgroup: non-English speakers. Over the last several years LSC has partnered with other associations like the African-American Project Directors Association to promote inclusion and multi-cultural competency. Today, legal services advocates are increasingly bilingual; 22 percent of employees at LSC-funded programs in my country speak more than one language. In addition, self-help, multilingual computer kiosks have overcome language barriers to help Native Americans living on reservations – and Vietnamese and Spanish immigrants in California – enforce their legal rights without knowing a word of English.

And I personally believe that the quality and effectiveness of advocacy also has improved over the last four years. The “prime directives” of state planning emphasize quality, training, holistic legal services and cross-program advocacy, and LSC and its grantees have paid increasing attention to the quality of the services we provide to our clients.

How does this relate to Canada and, specifically, the initiative you propose to launch to address issues that trouble your legal services system? Legal services programs in Canada are about the same age as ours, and serve a similar client community. You face, just like us, certain problems:

- Insufficient funding;
- Outmoded delivery system;
- Changes in client community;
- Changes in the law;
- Technological changes; and
- The need to prepare for the future.

These are pretty serious problems. At times, they even appear insurmountable. But that doesn't mean that we shouldn't try to address them in a proactive and "straight-on" manner. So I am going to conclude my remarks today by offering you some guidance as you give thought to launching your own planning initiative. Consider them my personal lessons from six years in the planning trenches:

First, although our state planning initiative is highly replicable for any organization trying to effect rapid change across a large and entrenched culture of individual programs or offices, such change is only possible if you are willing to be inclusive and collaborative in setting goals and processes, yet firm and resolute in their ultimate enforcement.

Second, it is going to require massive change not only among your providers in the field but within your own organization(s). Historically, LSC directives were seen by grantees as antithetical to their mission, so they resisted change while nonetheless remaining largely dependent on the waning federal investment. In order to overcome this obstacle we had to change the way we did business. We ramped up LSC's profile by visiting programs and participating in local meetings and national conferences to relay our message, hear reactions and improve relationships. And this same consistent message was repeated over and over again by key LSC staff wherever they traveled—including the President, the other Vice-Presidents, and the staff on the ground who were guiding states through the planning process. You will have to be willing to do the same. You will need—all of you will need—to be highly visible personally and professionally. And you must recognize and accept that doing so will take inordinate amounts of your time and your energy.

Third, you will—let me repeat that loudly and firmly—you WILL face resistance. Any effort to change a long-established system will meet resistance. That is inevitable.

However, the good news is that you can slowly overcome this resistance over time. But time—and timing—will be crucial. It won't happen overnight and it won't happen without some setbacks. We failed when we pushed willing, but unprepared grantees to opportunities they were not ready to exploit. We also suffered more than was necessary by not including willing grantees and other equal justice stakeholders early on as our partners in the process of effectuating change. We didn't realize how long it was going to take before we would begin to see some successes. And then we failed to celebrate those successes as important milestones and victories. So, expect resistance. Commit to the long haul. And celebrate your intermediary successes along the journey.

Fourth, tie planning to quality early on and stick with it. Planning is not an end. It is a means to an end and you must clearly and consistently articulate the “end” that you envision. Talk quality all of the time. Vigorously promote those legal services programs that provide high-quality legal assistance holding them out as programs others should emulate. Establish and share “best practices.” Be willing to stick your neck out and hold conferences and meetings on *quality* issues of interest to the legal services communities. In the last several years, LSC has hosted numerous conferences where advocates can share ideas, such as *Diversity in the Legal Services Community*, *Making Mergers Work*, and *Creating Client-Centered Communities of Justice*. Had we had more money we would have facilitated more conferences. They are an important mechanism to bring people together to find—and define—common ground

Fifth, put your money where your mouth is. Set aside money specifically for planning. Since 1999, LSC has awarded more than \$800,000 in technical assistance funds for State Planning projects. And although we could have used lots more, this small sum did allow us to publicly recognize high-performers and promote planning models for others to emulate. But money is important for another reason. Planning has “costs” and you need to be seen as an organization that understands those costs and is willing to help grantees and other stakeholders with some of the planning costs.

Sixth—Familiarize yourself with Sol Alinksy's **Rules for Radicals**. Not because you are going to use it. But because Mr. Alinksy lays out what you can personally expect to happen to you if you are in the forefront of this initiative. Mr. Alinksy instructs his readers to pick an issue, find an adversary and make it *personal*. And that may be you—at the wrong end of the personal attacks. So get psychologically prepared and don't be blind-sided by the venom. Although your journey is going to be difficult and at times you will doubt yourselves, the benefits to clients are well worth it and the satisfaction of hearing even the most recalcitrant of adversaries say that the new system is better than the one that went before is deeply rewarding. And remember what your Grandmother probably said to you a long time ago—*what doesn't kill you probably makes you stronger*.

Seventh—Don't ignore the need to promote the value of planning internally among all of your staff. One of the most stupid errors that LSC made as we kicked off an era of planning was not to take the time—and expend the energy—to make other offices and units within our own organization understand the importance of what we were doing and

their vital role in helping promote and develop world-class delivery systems. This set up needless competition for scarce resources and created hurt feelings among some staff.

And, finally—keep your eye on the prize. Remember the person who first decided to go to law school, think about that young excited lawyer starting his/her first job, remember the neophyte attorney newly admitted to the practice of law who was excited, scared and enthralled about the future. We all cared deeply about justice when we started this journey. And we care deeply about it today or we wouldn't be here together in this room. We will settle for nothing less than a world-class delivery system. And although we are a little older and slightly grayer and certainly more jaded, and we know now that we won't see it happen in our lifetimes, we still believe—I still believe—that our collective dream of a justice system that lets client walk through the doors of justice unimpeded and unshackled, is a dream that we will achieve. One day. Together. Here in Canada. And in the United States.

Thank you again for allowing me to be with you today.

ⁱ Twenty-five years ago, our government made a pledge to help ensure that all persons have access to America's civil justice system by enacting legislation that created Legal Services Corporation. Over the past 27 years, LSC has helped millions of low-income citizens solve important, sometimes life-threatening, civil legal problems. Despite the success of LSC and its many contributions to access to justice for low-income Americans, its achievements are overshadowed by the fact that so many in our society continue to suffer injustice and are unable to gain access to a lawyer for critical legal assistance. Until all members of our society are afforded that access, this promise of our government will continue to be unfulfilled. LSC is committed to promoting a new vision of legal services that will achieve the goal of bringing legal services to those currently denied access to the justice system.

ⁱⁱ **Program Letter 1995-1** directed LSC recipients to develop plans to stretch scarce federal dollars in the most effective, efficient ways possible. The letter also anticipated the passage of congressional restrictions on the activities of LSC programs, prompting LSC to instruct its programs to forge deeper bonds with other stakeholders, including non-LSC funded programs, state and local bar associations, IOLTA administrators, the judiciary, and client groups. **Program Letter 1995-4** provided a general outline as to the issues and criteria that the state planning process should address. Significant emphasis was placed on the integration of LSC-funded programs into *statewide* legal services delivery systems and the seven central tenets of state planning were identified.

ⁱⁱⁱ **Program Letter 1998-1**, published on February 12, 1998, called upon all LSC recipients to analyze any progress made toward the development of the legal services model envisioned by state planners. Programs were to evaluate whether all programs were working cohesively to assure that urgent clients needs were being addressed; whether sufficient capacities for training and information-sharing existed; whether programs were moving forward on technology; and whether they were collaborating to increase resources and develop new initiatives to expand the scope of their services. Grantees were also asked to examine whether the existing program configuration was conducive to the most effective state delivery system. Grantees were asked to examine their progress in each of the seven principal areas of State Planning in a manner that included assessing the strengths and weaknesses of the current approach, establishing goals to strengthen and expand services to eligible clients, and determining the major steps yet to be taken and a

timetable necessary to achieve those goals. LSC set a deadline of October 1, 1998, for submission of state planning reports.

^{iv} **Program Letter 1998-6**, published on July 6, 1998, responded to recipient requests for guidance and additional information on what was expected in their state planning reports. It included “State Planning Considerations” designed to address requests for additional information regarding statewide goals, capacities, and approaches recipients should consider in their state planning processes. Program Letter 1998-6 stated that the State Planning Initiative will provide information to aid LSC in exercising its statutory responsibility to “insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas.”

^v LSC is headed by an 11-member board of directors, appointed by the President, and confirmed by the Senate. By law, the board is bipartisan and no more than six members may be of the same political party.